

"Three Strikes" Studies

Signed by the Governor as an emergency measure in March 1994, the "three strikes and you're out" law doubles the base sentence for any new felony conviction if a defendant already has one prior serious or violent felony conviction. It also imposes a minimum sentence of 25-years-to-life in state prison for any felony conviction in which the defendant has two or more prior serious or violent felony convictions. In addition, defendants convicted under this law are required to serve 80 percent of their sentence before release (instead of 50 percent, as required for almost all other convicted offenders).

IMPACT OF THE LAW

The Administrative Office of the Courts (AOC) conducted a survey in March 1996 to measure the impact of the three-strikes law on the workload of the state trial courts.

The survey covered filing and disposition data from July through December 1995. All 58 superior courts and 53 of the 109 municipal courts responded. The study, however, does not reflect the impact of the 1996 California Supreme Court decision in *People v. Superior Court (Romero)*.

Specific findings:

Increased judicial workload: Fifteen superior courts estimated that their judicial workload for criminal cases increased more than 10 percent as a result of the three-strikes law. These courts accounted for 58 percent of California's felony filings in 1994–1995. Eighteen municipal courts (34 percent of responding courts) also estimated a greater than 10 percent increase in their judicial workload for felony cases.

Uneven impact: Larger superior courts, especially those in the Central Valley and those with high proportions of second- and third-strike filings, tended to attribute greater increases of judicial workload to the three-strikes law. Municipal courts in Los Angeles and those with high proportions of second- or third-strike filings reported greater workload increases as a result of the law than did other municipal courts. The varying impact from county to county probably reflects different prosecutorial policies concerning prior offenses.

Trial and preliminary hearing rates: Superior courts reported that more strike cases than nonstrike cases went to trial. The median trial rate was 4 percent for nonstrike cases, 9 percent for second-strike cases, and 41 percent for third-strike cases. These statistics indicate that a third of the courts (26 percent of responding courts)

SUPREME COURT RULINGS

People v. Superior Court (Romero)

In *People v. Superior Court (Romero)*, the California Supreme Court in June 1996 held that a trial court has discretion to dismiss prior strikes.

The Supreme Court emphasized that exercise of such discretion, while broad, is not absolute. In weighing a decision to exercise discretion, the trial court must consider the rights of the defendant and the interests of society. The exercise of discretion is subject to review, and the reasons for dismissal must be entered in the minutes. "It is not enough that on review the reporters' transcript may show the trial court's motivation; the minutes must reflect the reasons so that all may know why this greater power was exercised."

People v. Williams

In January 1998, the court in a unanimous decision in *People v. Williams* ruled that a defendant whose past and present conduct showed him or her to be within "the spirit of the three-strikes law" must be given a full sentence with no reduction. A judge can reduce a three-strikes sentence only if, in light of the defendant's current and past crimes "and the particulars of his background, character and prospects, the defendant may be deemed outside ... the spirit" of the three-strikes law.

People v. Benson

In May 1998, the court in *People v. Benson* ruled that multiple felonies can be punished as separate strikes even if they arise from a single criminal act. "We must conclude, based upon the plain language of the statute, that the Legislature and the voters through the initiative process clearly intended that each conviction for a serious or violent felony counts as a prior conviction for sentencing purposes under the three-strikes law, even where the convictions were based upon conduct against a single victim committed at the same time with a single intent, and where pursuant to [Penal Code] section 654 the defendant was punished for only a single crime."

strike case typically requires substantially more judicial resources than a second-strike case, and that a second-strike case typically requires substantially more than a nonstrike case.

Municipal courts reported that strike cases were more likely to go to the preliminary hearing stage than nonstrike cases. The median preliminary hearing rate was 37 percent for nonstrike cases, 67 percent for second-strike cases, and 79 percent for third-strike cases.

Judicial resources shifted: Half the responding superior courts reported at least a 13 percent increase in the proportion of judicial resources allocated to criminal cases from February 1994 to February 1996. Yet judicial resources allocated to general civil cases decreased by a median of 8 percent. This indicates that judicial resources—judges, staff, and courtrooms—were shifted from civil cases to criminal cases. Seventeen of the counties surveyed attributed a growing backlog of civil cases to this reduction in judicial resources.

Administrative workload: Twenty-six superior courts (45 percent) and 21 municipal courts (40 percent) reported that the three-strikes law has noticeably increased their administrative workload. Courts attributed this additional workload to preparation and certification of records of conviction, collection and assessment of statistical data to measure and manage two- and three-strike cases, and preparation of more trial records for appeals. For example, the Unified Trial Courts of San Joaquin County reported using one additional employee to prepare and certify records of conviction because of the three-strikes law. The Consolidated/Coordinated Superior and Municipal Courts of Riverside County reported having to add two additional full-time employees for this function.

UPCOMING STUDY

In 2000, the AOC will report on the results of its latest study. The new report will provide a more comprehensive analysis of the law's impact on California trial courts by comparing 1992–1993 (the last full fiscal year before the implementation of three strikes) to 1995–1996 (the most recent available data when the bulk of the research was done).

RELIEF TEAMS

To assist courts that experienced a workload increase because of three-strikes cases, Senate Bill 1393 (Stats. 1996, ch. 162) provided \$3.5 million in fiscal year 1996–1997 for relief teams to adjudicate second- and third-strike cases in those courts. Thanks to the Three Strikes Program, 11 trial courts that were experiencing an excessive backlog of second- and third-strike cases were able to dispose of numerous cases—including civil and nonstrike criminal cases—that otherwise would have languished.

During the first six months of the program's operation (January–July 1997), 31 relief team judges disposed of 705 cases, according to the Judicial Council's Three Strikes Relief Team Program Fiscal Year 1996–1997 Report to the Legislature. Of that total, 620 were felonies, 13 were misdemeanors, 67 were civil matters, and 5 were other types of cases. Ninety-five cases were dismissed or transferred, 382 were pleaded out, and 228 cases reached verdicts.

The judges were selected for their judicial experience in criminal law and their good standing in the Judicial Council's Assigned Judges Program. Requests from courts for judicial assistance to handle strike cases exceeded the pool of available strike judges, so additional retired judges were recruited to handle other criminal and civil cases.

FEEDBACK

Participating courts surveyed in September 1997 acknowledged that the program resulted in numerous pleas, verdicts, and dismissals that would not have been possible had the courts not had these additional judicial resources. In other survey results:

- Six courts concluded that the program had a high impact on their backlog of strike cases, two saw a medium impact, and three a low impact. Because the number of judges assigned to reduce backlogged cases was relatively small compared to the total backlog, four courts said the program did not have a great impact on their strike case backlog.
- All participating courts said the assigned judges provided valuable assistance that allowed the courts to address the backlog of their civil and nonstrike criminal workloads. Eight courts reported a high impact from the assigned judges, one a medium impact, and two a low impact. The medium- and low-impact responses were attributed to the relatively small number of relief team judges compared to the civil and nonstrike criminal workloads.
- The Three Strikes Program was continued through fiscal years 1997–1998 and 1998–1999. The program ended June 30, 1999, and the final impact report is pending.